

**Sec. 30.21. Definitions.**

(a) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Automotive vehicle* shall mean and include, but shall not be limited to, instruments of conveyance such as automobiles, trucks, buses, tractors (crawler and pneumatic tired types), motorcycles, motorscooters, automotive industrial trucks, Ross Carriers, lift trucks, locomotive cranes, airplanes, motorboats with built-in motors, boats with outboard type motors attached thereto by attachments intended to be permanent rather than readily removable and which motors are controlled with remote controls built on or into the hull of said boat. "Automotive vehicles" shall also include power shovels, ditchers and similar machines which are self propelled, but which are not primarily used as instruments of conveyance.

*Business* shall include all activities engaged in, or caused to be engaged in, with the object of gain, profit, benefit or advantage, either direct or indirect, and not excepting subactivities producing marketable commodities used or consumed in the main business activity, each of which subactivities shall be considered business engaged in, taxable in the class in which it falls.

*City* means the City of Anniston, Alabama and the police jurisdiction thereof.

*Gross proceeds of sales* means the value proceeding or accruing from the sale of tangible personal property (and including the proceeds from the sale of any property handled on consignment by the taxpayer), including merchandise of any kind and character without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever, and without any deductions on account of the accounts of losses; provided that cash discounts allowed and taken on sales shall not be included, and "gross proceeds of sales" shall not include the sale price of property returned by customers when the full sales price thereof is refunded either in cash or by credit. Said term "gross proceeds of sales" shall also mean and include the reasonable and fair market

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\***Editor's note**—See the editor's footnote to the title of this article.

value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock and used or consumed in connection with the sale business, and shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn from the business or stock and used or consumed by any person so withdrawing the same, except property which has been previously withdrawn from such business or stock and so used and consumed with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming the same.

*Gross receipts* means the value proceeding or accruing from the sale of tangible personal property, including merchandise and commodities of any kind and character, all receipts actual and accrued, by reason of any business engaged in (not including, however, interest, discounts, rentals of real estate or royalties) and without any deduction on account of the cost of the property sold, the cost of the material used, labor or service cost, interest paid, or any other expenses whatsoever and without any deductions on account of losses. Said term "gross receipts" shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock and used or consumed in connection with said business, and shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn from the business or stock and used or consumed by any person so withdrawing the same, except property which has been previously withdrawn from such business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming the same.

*Person or company*, herein used interchangeably, includes any individual, firm, co-partnership, association, corporation, receiver, trustee or any other group or combination acting as a unit and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

*Revenue director* means the revenue director of the City of Anniston.

*Sale or sales* includes installment and credit sales and the exchanges of properties as well as the sale thereof for money, every closed transaction constituting a sale.

*Sale at retail or retail sale* shall mean all sales of tangible personal property except those above defined as wholesale sales. The quantities of goods sold, or prices at which sold, are immaterial in determining whether or not a sale is at retail. Sales of building materials to contractors, builders, or landowners for resale or used in the form of real estate are retail sales in whatever quantity sold. Sales of building materials, fixtures, or other equipment to a manufacturer or builder of modular buildings for use in manufacturing, building or equipping a modular building ultimately becoming a part of real estate situated in the city are retail

sales, and the use, sale or resale of such building shall not be subject to the tax. Sales of tangible personal property to undertakers and morticians are retail sales and subject to the tax at the time of purchase, but are not subject to the tax on resale to the consumer. Sales of tangible personal property or products to manufacturers, quarry operators, mine operators, or compounders, which are used or consumed by them in manufacturing, mining, quarrying or compounding and do not become an ingredient or component part of the tangible personal property manufactured or compounded are retail sales. The term "sale at retail" or "retail sale" shall also mean and include the withdrawal, use or consumption of any tangible personal property which has been previously withdrawn from the business or stock and so used or consumed with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming the same; and such wholesale purchaser shall report and pay the taxes thereon.

*Tax year or taxable year* means the calendar year.

*Taxpayer* means any person liable for taxes hereunder.

*Wholesale sale or sale at wholesale* means any one of the following: a sale of tangible personal property by wholesaler to licensed retail merchants, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale; a sale of tangible personal property or products (including iron ore) to a manufacturer or compounder which enters into and becomes an ingredient or component part of the tangible personal property or products which such manufacturer or compounder manufactures or compounds for sale, and the furnished container and label thereof; a sale of containers intended for one-time use only, and the labels thereof, when such containers are sold without contents to persons who sell or furnish such containers along with the contents placed therein for sale by such persons; a sale of pallets intended for one-time use only when such pallets are sold without contents to persons who sell or furnish such pallets along with the contents placed thereon for sale by such persons; a sale to a manufacturer or compounder of crowns, caps, and tops intended for one-time use employed and used upon the containers in which such manufacturer or compounder markets his products; a sale of containers to persons engaged in selling or otherwise supplying or furnishing baby chicks to growers thereof where such containers are used for the delivery of such chicks or a sale of containers for use in the delivery of eggs by the producer thereof to the distributor or packer of such eggs even though such containers used for delivery of baby chicks or eggs may be recovered for reuse; a sale of bagging and ties used in preparing cotton for market; a sale to meat packers, manufacturers, compounders, or processors of meat products of all casings used in molding or forming wieners and Vienna sausages even though such casings may be recovered for reuse; a sale of commercial fish feed including concentrates, supplements, and other feed ingredients when such substances are used as ingredients in mixing and preparing feed for fish raised to be sold on a commercial basis; a sale of tangible personal property to any person engaging in the business of leasing or renting such tangible personal property to others, if such tangible personal property is purchased for the purpose of leasing or renting it to others. The term "wholesale" or "sale at wholesale" shall

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also be deemed to include a purchase or withdrawal of parts or materials from stock by any person licensed under this article where such parts or materials are used in repairing or reconditioning the tangible personal property of such licensed person, which tangible personal property is a part of the stock of goods of such licensed person, offered for sale by him and not for use or consumption of such licensed person.

(b) The use within the city of tangible personal property by the manufacturer thereof, as building material in the performance of a construction contract, shall, for the purposes of this article, be considered as a retail sale thereof by such manufacturer, who shall also be construed as the ultimate consumer of such materials or property, and who shall be required to report such transaction and pay the sales tax thereon, based upon the reasonable and fair market price thereof at the time and place where same are used or consumed by him or it. Where the contractor is the manufacturer or compounder of ready-mix concrete or asphalt plant mix used in the performance of a contract, whether the ready-mix concrete or asphalt plant mix is manufactured or compounded at the job site or at a fixed or permanent plant location, the tax applies only to the cost of the ingredients that become a component part of the ready-mix concrete or the asphalt plant mix. The provisions of this subdivision shall not apply to any tangible personal property which is specifically exempted from the tax levied in this article. (Ord. No. 90-O-13, § 1, 4-9-91)

#### **Sec. 30.22. Property taxed; persons liable.**

There is hereby levied, in addition to all other taxes of every kind now imposed by law; and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

- (a) Upon every person, firm or corporation, including the State of Alabama, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, any association or other agency or instrumentality of such institutions, but excluding the Alcoholic Beverage Control Board of the State of Alabama in the sale of alcoholic beverages of all kinds, engaged in continuing within this city in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, not including, however, bonds and other evidences of debts or stocks, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships and other watercraft of over fifty (50) tons burden, an amount equal to four (4) percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business.

Where any used part of an automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part, the tax levied herein shall be paid on the net difference, that is, the price of the new or used part sold less the credit for the used part taken in trade; provided, however, that this provision shall not be construed to include tires or batteries.

- (b) Upon every person, firm or corporation engaged, or continuing within this city, in the business of conducting, or operating, places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, motion picture theaters, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games, including athletic contests conducted by or under the auspices of any educational institution within the state, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, county, or municipal institution or association or a state, county, or city school, or other institution, association or school, skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the city, an amount equal to four (4) percent of the gross receipts of any such business.
- (c) Upon every person, firm or corporation engaged or continuing within this city in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, an amount equal to one-half of one (0.0050) percent of the gross proceeds of the sale of such machines; provided, that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operations of such machines and which are necessary to the operation of such machines and are customarily so used.
- (d) Upon every person, firm or corporation engaged or continuing within this city in the business of selling at retail any automotive vehicle or truck trailer, semitrailer or house trailer, an amount equal to three-quarters of one (0.0075) percent of the gross proceeds of sale of such automotive vehicle or truck trailer, semitrailer or house trailer, provided, however, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle or truck trailer, semitrailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee of five dollars (\$5.00) per year or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be of such withdrawal and shall run for the twelve (12) succeeding months or

parts thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person.

Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicles sold less the credit for the used vehicle taken in trade.

- (e) Upon every person, firm, or corporation engaged or continuing within this city in the business of selling at retail any machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, and the parts of such machines, machinery or equipment, attachments and [replacements] therefor, which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, an amount equal to one-fourth of one percent of the gross proceeds of the sale thereof. Provided, however, the one-fourth of one (0.0025) percent rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities.

Where any used machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.

- (f) Upon every person, firm or corporation engaged or continuing within this city in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to four (4) percent of the cost of such food, food products and beverages sold through such machine, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.
- (g) Upon every person, firm or corporation engaging within the city in the business of renting or furnishing any room or rooms, lodgings or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin or any other place in which rooms, lodgings or accommodations are regularly furnished to transients for a consideration, in an amount to be determined by the application of the rate of six (6) percent of the charge for such room, rooms, lodgings or accommodations, including the charge for use or rental of personal property and services furnished in such room. Provided,

however, there is exempt from the tax levied under the provisions of this section any rental or services taxed under the provisions of the city sales tax ordinance as it may, from time to time, be amended. The tax shall not apply to rooms, lodgings, or accommodations supplied for a period of thirty (30) continuous days or more in any place. The levy of the sales and use taxes and the tax on the rental of rooms, lodgings, and accommodations under the provisions of this article parallels the state levy except for the rate of the tax, and is subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, penalties, fines, punishments and deductions as are applicable to the state of sales and use taxes and the state tax on the rental of rooms, lodgings, and accommodations as levied respectively by Sections 40-23-1, 40-23-2, 40-23-4, 40-23-6 through 40-23-31 and 40-23-34 through 40-23-36 Code of Alabama, 1975; and Title 40, Chapter 23, Article 2 Code of Alabama 1975; and Sections 40-26-1 through 40-26-20 Code of Alabama 1975, and all acts amendatory thereof and supplementary thereto, or as the same may hereafter be amended, except where inapplicable or where by State of Alabama statute or law otherwise provided, including provisions for enforcement and collection of the taxes.

- (h) Any person, firm or corporation doing business within the police jurisdiction of the city, but outside the corporate limits thereof, shall pay for the privilege of doing said business one-half of the amounts respectively hereinabove levied and imposed for doing business within the corporate limits of the city.

(Ord. No. 91-O-13, § 2, 4-9-91; Ord. No. 91-O-34, §§ 1—4, 10-22-91; Ord. No. 91-O-46, § 1, 12-10-91; Ord. No. 93-O-29, § 1, 8-24-93; Ord. No. 95-O-10, § 1, 2-28-95)

### **Sec. 30.23. Exemptions.**

There are exempted from the provisions of this division and from the computation of the amount of tax levied, assessed or payable under this division, the gross proceeds of sales of tangible personal property or the gross receipts of any business which the city is prohibited from taxing under the constitution or laws of the United States or under the constitution or laws of the State of Alabama, as now or hereafter amended, with particular reference to all exemptions contained in Article 1, Chapter 23, Title 40, Code of Alabama 1975, entitled "Sales Tax," as the same is now or hereafter amended and all acts supplemental thereto except where inapplicable or where herein otherwise provided, all of which Article 1 above is adopted and made a part hereof by reference.

(Ord. No. 91-O-13, § 3, 4-9-91)

### **Sec. 30.24. Retailer to register.**

If any person, on or after May 1, 1991, shall engage in or continue in any business for which a privilege tax is imposed by section 30.22, as a condition precedent to engaging or continuing in such business, he shall apply for and obtain from the city a license to engage in

and to conduct such business for the current tax year upon the condition that he shall pay the taxes accruing to the city, under the provisions of this division, and no provisions of this division shall be construed as relieving any person from the payment of any license or privilege tax now or hereafter imposed by law.

(Ord. No. 91-O-13, § 4, 4-9-91)

**Sec. 30.25. Retailer to collect tax, give information, file returns, exceptions.**

The taxes levied under the provisions of this division, except as otherwise provided, shall be payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues. On or before the twentieth day of each month after this division shall have taken effect, any person on whom the taxes levied by this ordinance are imposed, shall render to the city on a form prescribed by the city, a true and correct statement showing the gross sales, the gross proceeds of sales, or gross receipts of his business, as the case may be, for the next preceding month, the amount of gross proceeds or gross receipts which are not subject to the tax, or are not to be used as a measurement of the taxes due by such person, and the nature thereof, together with such other information as the city may demand and require, and at the time of making such monthly report such persons shall compute the taxes due and shall pay to the revenue director the amount of taxes shown to be due thereon. The revenue director for good cause, may extend the time for making any return required under the provisions of this division, but the time for filing any such return shall not be extended for a period greater than thirty (30) days from the date such return is due to be made.

(Ord. No. 91-O-13, § 5, 4-9-91)

**Sec. 30.26. Reporting of credit sales.**

Any person taxable under this division, having cash and credit sales may report such cash sales, and the taxpayer shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the taxes due thereon at the time of filing such report, but in no event shall the gross proceeds of credit sales be included in the measure of the tax to be paid until collections of such credit sales shall have been made.

(Ord. No. 91-O-13, § 6, 4-9-91)

**Sec. 30.27. Records to be kept.**

It shall be the duty of every person engaging, or continuing, in this city in any business for which a privilege tax is imposed by this division, to keep and preserve suitable records of the gross sales, gross proceeds of sales and gross receipts or gross receipts of sales of such business and such other books or accounts as may be necessary to determine that amount of tax for which he is liable under the provisions of this division. It shall also be the duty of every person to keep and preserve, for a period of three (3) years, all invoices of goods, wares and merchandise purchased, for resale or otherwise, and all such books, invoices and other records shall be open for examination at any time by the city or its duly authorized agents. Any person, firm or corporation engaged in selling both at wholesale and retail, shall keep his books so as to show separately the gross proceeds of wholesale sales and the gross proceeds of retail sales.

(Ord. No. 91-O-13, § 7, 4-9-91; Ord. No. 95-O-25, § 1, 7-11-95)



**Sec. 30.28. False information; penalties.**

The monthly reports herein required to be made are not required to be made on oath, but wherever in this division any report is required to be sworn to by the taxpayer or his agent before some officer authorized to administer oaths and any false statement to a material fact made with intent to defraud shall constitute perjury and upon conviction thereof the person so convicted shall be punished as provided in section 1.14 of this Code.  
(Ord. No. 91-O-13, § 8, 4-9-91)

**Sec. 30.29. Failure to make reports; penalties.**

Any person subject to the provisions of this division who shall fail to make the reports or any of them, as herein required, or who shall fail to keep the records as herein required, shall upon conviction be fined not less than twenty-five dollars (\$25.00), nor more than two hundred dollars (\$200.00) for each offense. Each month of such failure shall constitute a separate offense.  
(Ord. No. 91-O-13, § 9, 4-9-91)

**Sec. 30.30. Willful failure to make reports; penalties.**

Any person subject to the provisions of this division willfully refusing to make the reports herein required by the city, or its duly authorized agents, shall upon conviction be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) and, in addition, may be sentenced to a term of six (6) months in jail. Each month of failure to make such reports shall constitute a separate offense, and each refusal of a written demand by the city to examine, inspect or audit such records shall constitute a separate offense.  
(Ord. No. 91-O-13, § 10, 4-9-91)

**Sec. 30.31. Overpayments, underpayments; penalty and interest.**

As soon as practicable after the return is filed, the city shall examine it and ascertain the proper amount of the tax due as shown by the return. If the amount paid is greater than the amount due, as shown by the return, the excess shall be refunded to the taxpayer, or credited on any deficiency previously due by the taxpayer, in accordance with the law and under such rules and regulations as the city may adopt and promulgate. If the amount paid is less than the amount due, as shown by the return, the city shall notify the taxpayer of such deficiency and shall add thereto a penalty of ten (10) percent of the amount due and interest at the rate of one (1) percent per month or fraction thereof, from the date of delinquency, that is, the date the same was due, which shall be collected as a part of the tax; provided the city, if a good and sufficient reason is shown, may waive or remit the penalty of ten percent or a portion thereof.  
(Ord. No. 91-O-13, § 11, 4-9-91)

**Sec. 30.32. Failure to pay tax; penalty and interest.**

Any person who fails to pay the tax herein levied within the time required by this division shall pay, in addition to the tax, a penalty of ten (10) percent of the amount of tax due, together with interest thereon at the rate of one (1) percent per month and fraction thereof, from the date at which the tax herein levied became due and payable, such penalty and interest to be assessed and collected as part of the tax. Provided the city, if a good and sufficient reason is shown, may waive or remit the penalty of ten (10) percent or a portion thereof.

(Ord. No. 91-O-13, § 12, 4-9-91)

**Sec. 30.33. City to estimate tax due where no return made; penalties.**

If any taxpayer fails to make the returns herein required, the city shall issue written notice, by certified mail, or written notice delivered by its authorized agent, to such taxpayer to make such returns forthwith, and if such taxpayer fails or refuses to make such return, or returns, within thirty (30) days from the date of such notice, the city shall make returns for such delinquent taxpayer upon such information as it may reasonably obtain, and shall assess the taxes due thereon, and shall add a penalty for failure to make such return and payment of twenty-five (25) percent of the tax due, as assessed by the city and interest at the rate of one (1) percent per month, or fraction thereof, from the date such taxes were due. Provided the city, if a good and sufficient reason is shown for such delinquency, may waive or remit the twenty-five-percent penalty, or a portion thereof.

(Ord. No. 91-O-13, § 13, 4-9-91)

**Sec. 30.34. Audits; assessments; extensions of time to pay.**

Whenever the city, in examining and auditing the records of any taxpayer, or from other information, shall ascertain that the amount or amounts, previously paid by any taxpayer for any period, or periods, to be deficient, the city shall compute any additional amount of tax due, shall notify the taxpayer, and shall demand payment therefor. If the amount demanded is not paid within ten (10) days from the date of such demand, or if the taxpayer does not request an extension of time within ten (10) days from the date of such demand, the revenue director shall make an assessment against the taxpayer of the amount due and shall add a penalty of one (1) percent per month from the date such taxes or any part thereof became due; provided that the revenue director may, if a good and sufficient reason is shown, waive or remit the penalty, or a portion thereof. If, within ten (10) days from the date of notice of a deficiency, the taxpayer requests in writing an extension of time, the revenue director may grant an extension of not more than thirty (30) days. If, at the end of such extended period, the deficiency has not been paid, the city shall proceed with the assessment. Provided that if the revenue director shall be of the opinion that there was a willful and fraudulent intent by the taxpayer to evade the tax due, the city may assess a penalty of twenty-five (25) percent of the tax; provided that upon such appeal such action shall be reviewable.

(Ord. No. 91-O-13, § 14, 4-9-91; Ord. No. 93-O-28, § 1, 7-13-93)

**Sec. 30.35. Notice of tax due; hearings before city council.**

Whenever the city shall make an assessment against a taxpayer as herein provided, the city shall notify the taxpayer by registered or certified mail, or written notice delivered by its authorized agent, of the amount of such assessment, and shall notify the taxpayer to appear before the city council on a day named not less than twenty (20) days from the date of such notice and show cause why such assessment should not be made final. Such appearance may be made by agent or attorney. If no showing is made on or before the date fixed in such notice, or if such showing is not sufficient in the judgment of the city council, such assessment shall be made final in the amount originally fixed or in such other amount as is determined by the city council to be correct. If upon such hearing the city council finds the amount due to be different from that originally assessed, it shall make the assessment final in the correct amount and in all cases shall notify the taxpayer of the assessment as finally fixed, by the United States mail addressed to the taxpayer's last known place of business. Any assessment made by the city shall be prima facie correct upon appeal.

(Ord. No. 91-O-13, § 15, 4-9-91)

**Sec. 30.36. Appeals.**

(a) Whenever any taxpayer, who has duly appeared and protested an assessment by the city, is dissatisfied with the assessment as finally made, he may appeal to the Circuit Court of Calhoun County, Alabama, in the same manner provided by Section 40-2-22, Code of Alabama, 1975, provided, no appeal shall lie in any case where the taxpayer has failed to appear and protest the assessment before the city council.

(b) Any notice, provided for by this division, of an amount due under this division shall be given or any action in court for the collection of such amount shall be begun within three (3) years of the due date of such amount or three (3) years within which any payment has been made on such amount due, provided, however, in the case of a false or fraudulent return with intent to evade payment of taxes imposed by this division or a failure to file a return, the tax may be assessed or a proceeding in court for the collection of such tax may be begun at any time.

(c) The revenue director and the taxpayer, before the expiration of the time prescribed herein, may agree in writing to an extension of the time during which such proceedings may be begun. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The revenue director shall also be authorized in such agreement to extend the period within which the taxpayer may file a claim for refund of such taxes where such agreement is entered into before a claim for refund is barred because of the lapse of time. The revenue director shall adopt such rules and regulations as he deems necessary for the proper administration of this section.

(Ord. No. 91-O-13, § 16, 4-9-91)

**Sec. 30.37. Liens upon property.**

The tax, together with interest and penalties imposed by this division, shall be a lien upon the property of any person subject to the provisions of this division.

(Ord. No. 91-O-13, § 17, 4-9-91)

**Sec. 30.38. Civil suits; limitations.**

The tax herein levied shall constitute a debt due the city and may be collected by civil suit brought at any time within three (3) years after the tax has become due and payable.

(Ord. No. 91-O-13, § 18, 4-9-91)

**Sec. 30.39. Jeopardy determinations.**

If the city finds a person liable for tax under any provisions of this division designs quickly to depart from the city or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings be brought without delay, the city shall cause notice of such findings to be given such person, together with a demand for an immediate return and immediate payment of such tax. Thereupon such tax shall become immediately due and payable. If such person is not in default in making such return or paying any tax prescribed by this division, and furnishes evidence satisfactory to the city that he will duly return and pay the tax to which the city's findings relate then such tax shall not be payable prior to the time otherwise fixed for payment. If such person fails to appear and make such showing, then the city shall make such assessment final.  
(Ord. No. 91-O-13, § 19, 4-9-91)

**Sec. 30.40. Itinerant vendors' bonds; forfeiture.**

For the purpose of securing the payment of any tax, penalties, or interest due or which may become due under the provisions of this division, every itinerant vendor engaged in the business of selling tangible personal property at retail in the city shall be required to file a bond to be approved by the revenue director which shall be in an amount of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1000.00) as fixed by the revenue director for the city equal to the amount of tax estimated due or to become due under the provisions of this division and shall have a surety or sureties satisfactory to the revenue director, or the itinerant vendor may deposit in cash the sum which shall be estimated by the revenue director. If such itinerant vendor fails to make any return due under this division or to pay any taxes or penalties due hereunder, or to keep books and records as required by this, or fails to perform any other duty or obligation imposed on him under this division, such bond or cash deposited in lieu thereof shall thereupon be forfeited, and the city may institute suit upon such bond for the entire amount thereof.  
(Ord. No. 91-O-13, § 20, 4-9-91)

**Sec. 30.41. Final return of retailer selling out; purchaser to retain part of purchase money.**

Any person subject to the provisions hereof who shall sell out his business or stock of goods, or shall quit business, shall be required to make out the return provided for under section 30.25 within thirty (30) days after the date he sold out his business, or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of the taxes due and unpaid until such time as the former owner shall produce a receipt from the city showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided and taxes shall be due and unpaid after the thirty-day period, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner.  
(Ord. No. 91-O-13, § 21, 4-9-91)

**Sec. 30.42. Tax to be direct tax on retail consumer.**

Every person, firm, corporation, association or partnership engaged in or continuing within the city in any business for which a license or privilege tax is required by this division shall, except as otherwise herein provided, add to the sale price and collect from the purchaser on all sales upon the gross receipts or gross proceeds of which there is levied by this division a sales tax at the rate of four (4) percent of the sales price. Upon all sales the gross receipts or gross proceeds of which are taxed by this division at a rate of less than four (4) percent, there shall be added to the sales price and collected from the purchaser by such person, firm, corporation, association or partnership described in this section an amount equal to the prescribed percentage of such sales price. It shall be unlawful for any person, firm, corporation, association or partnership described in this section to fail or refuse to add to the sales price and collect from the purchaser the amount required by this section to be so added to the sales price and collected from the purchaser; and it shall likewise be unlawful to refund or offer to refund all or any part of the amount collected, or to absorb or advertise directly or indirectly the absorption or refund of the amount required to be added to the sales price and collected from the purchaser, or any portion of such amount. Any person, firm, corporation, association or partnership violating any of the provisions of this section shall, upon conviction, be fined in a sum of not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00), or may be imprisoned in the city jail for not more than six (6) months, or both such fine and imprisonment, and each act in violation of the provisions of this division shall constitute a separate offense. The requirement herein that there shall be added to the sale price and collected from the purchaser the amounts provided herein shall in no way relieve the person, firm, corporation, association or partnership described in this section of the tax levied by this division, nor shall the inability, impracticability, refusal or failure to add to the sales price and collect from the purchaser the amounts provided herein relieve such person, firm, corporation, association or partnership from the tax levied by this division. All taxes paid in pursuance to this division shall conclusively be presumed to be a direct tax on the retail consumer precollected for the purpose of convenience and facility only.

(Ord. No. 91-O-13, § 22, 4-9-91; Ord. No. 94-O-24, § 1, 5-31-94)

**Sec. 30.43. Tax additional to all other license and taxes.**

The tax imposed by this division shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business taxable hereunder, except as in this division otherwise specifically provided.

(Ord. No. 91-O-13, § 23, 4-9-91)

**Sec. 30.44. Unlawful to make public confidential information.**

(a) Unless in accordance with a judicial order or as herein provided, the city, its agents, clerks or stenographers shall not divulge the gross receipts, gross proceeds of sales, or the amount of tax paid by an person as shown by the reports filed under the provisions of this division, except to employees of the city for the purpose of checking, comparing and correcting returns, or any other legal representative of the city in any action in respect to the amount of tax due hereunder the provisions of this division.

(b) Any duly authorized agent of the tax collecting authority of any municipally, county, state or federal government shall have access at any reasonable time, upon request to the revenue director to the information contained in the sales tax returns, statements or information secured by the city or employees for the purpose of arriving at an amount of any tax due from any person, firm or corporation, if such person, firm or corporation is liable for, or if there is probable cause for believing such person, firm, or corporation might be liable for the payment of any tax to such municipality, county, state or federal government.

(c) The revenue director of the city shall have the authority to promulgate reasonable rules and regulations governing the release of the information as provided in subsection (b) above.

(d) It shall be unlawful for any person to use any information obtained in accordance with subsection (b) above for any purpose other than ascertaining the amount of taxes due the municipality, county, state or federal government.

(Ord. No. 91-O-13, § 24, 4-9-91)

**Sec. 30.45. Restraint from continuing in business; prosecution.**

Any taxpayer who shall violate any of the provisions of this division may be restrained from continuing in business, and proper prosecution shall be instituted in the name of the city until such person shall have complied with the provisions of this division.

(Ord. No. 91-O-13, § 25, 4-9-91)

**Sec. 30.46. Rules and regulations, direct pay permits.**

The city shall, from time to time, promulgate such rules and regulations for making returns and for ascertainment, assessment and collection of the tax imposed under this division as it may deem necessary to enforce its provisions; and upon request shall furnish any taxpayer with a copy of such rules and regulations. The city may adopt rules and regulations providing for the issuance of permits to manufacturers to purchase tangible personal property without the payment to the vendor of the sales tax, and providing for such manufacturer to report and pay such tax directly to the city, in instances where the city determines that it is practically impossible at the time of purchase for such manufacturer or his vendors to determine with any degree of certainty the applicability of such tax, and such provisions will facilitate and expedite the collection of the tax which may be due from such consumer; and such provisions may also be made applicable to persons engaged in the business of mining, quarrying, compounding, or processing tangible personal property, railroads, transportation, companies and others.

(Ord. No. 91-O-13, § 26, 4-9-91)

**Sec. 30.47. Discount; interest; penalty.**

Every person subject to this division shall be entitled to a discount in an amount equal to two (2) percent of all taxes paid to the city under the provisions of this division, provided the returns are made and the taxes paid before the same become delinquent hereunder. If the returns are not filed within the time herein provided and the taxes not paid on the dates herein

provided for, no such person shall be entitled to such a discount, but shall pay the city a full amount of the tax together with interest at the rate of one (1) percent per month from the date the payment of the tax became delinquent and a ten-percent late payment penalty .

The proceeds derived from the taxes herein levied shall be placed in the general fund of the city subject to appropriation by its city council for any lawful purpose of the city.  
(Ord. No. 91-O-13, § 27, 4-9-91)

**Sec. 30.48. State code reference.**

The taxes levied by this division shall be subject to all exemptions as provided in Title 40, Article I, of the Code of Alabama, 1975, as now or hereafter amended and all acts supplementary thereto, except where inapplicable or where herein otherwise provided, all of which are adopted and made a part thereof by reference.  
(Ord. No. 91-O-13, § 28, 4-9-91)

**Sec. 30.49. Refunds.**

If upon request for a refund by a taxpayer it is determined that an amount of tax has been paid in excess of that lawfully due, then the amount in excess shall be credited against any other delinquent tax amounts due the city from the taxpayer and any balance shall be refunded to the taxpayer if all of the following have taken place:

- (1) If evidence of the amount of the refund is properly presented by the licensee;
- (2) If the request is properly made by the licensee and any required joint petitioner(s); and
- (3) If the request is made within three (3) years of the due date of the payment.

Any taxes recovered by suit by any taxpayer shall be refunded in like manner, but shall be accompanied by a copy of the order or decree of the court issuing such order or decree.  
(Ord. No. 91-O-13, § 29, 4-9-91; Ord. No. 96-O-26, § 3, 8-27-96)

**Sec. 30.50. Interest on refunds.**

On any overpayment of any sales tax levied under any provision of this division, the city, in addition to the amount of the overpayment, shall include interest thereon at the rate of one (0.01) percent per month, or fraction thereof from the date of such overpayment regardless of whether or not the overpayment is applied to an existing delinquency or actually refunded to the taxpayer.  
(Ord. No. 91-O-13, § 30, 4-9-91; Ord. No. 96-O-26, § 4, 8-27-96; Ord. No. 98-O-32, § 1, 11-10-98)

**Sec. 30.51. Blind person's exemption.**

There are also exempted from the provisions of this division and from computation of the amount of the tax levied, assessed, or payable hereunder, the gross proceeds of sales amounting to one thousand dollars (\$1,000.00) a month or less from small stores or vending



Any person who procures a license under the provisions of this section and permits any other person, firm or corporation to engage in or conduct business under this license shall upon conviction be punished as provided in section 1.4 of this code.

(Ord. No. 91-O-13, § 31, 4-9-91)

**Sec. 30.52. Prior liability.**

Nothing contained in this division shall be construed to relieve any person from any tax liability, penalty or forfeiture incurred under any laws or ordinance of the city prior to the effective date of this division.

(Ord. No. 91-O-13, § 32, 4-9-91)

**Secs. 30.53–30.70. Reserved.**

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